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10 *Attorneys for Defendant, CITY OF LOS ANGELES*

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 **CARL MITCHELL, MICHAEL**  
14 **ESCOBEDO, SALVADOR ROQUE,**  
15 **JUDY COLEMAN, as individuals; LOS**  
16 **ANGELES CATHOLIC WORKER,**  
17 **CANGRESS, as organizations,**

18 *Plaintiffs,*

19 *v.*

20 **CITY OF LOS ANGELES, a municipal**  
21 **entity; LT. ANDREW MATHIS, SGT.**  
22 **HAMER and SGT. RICHTER, in their**  
23 **individual and official capacities,**

24 *Defendants.*

25 **CASE NO.: CV16-01750 SJO (JPRx)**

26 *Hon. S. James Otero, Ctrm. 1*

27 *Mag. Jean P. Rosenbluth, Ctrm. A*

28 **DEFENDANT CITY OF LOS**  
**ANGELES' ANSWER TO**  
**PLAINTIFFS' FIRST AMENDED**  
**COMPLAINT FOR DAMAGES**

29 COMES NOW DEFENDANT, **CITY OF LOS ANGELES** answers Plaintiffs'  
30 First Amended Complaint in the above-entitled action, for itself alone and for no other  
31 party, hereby admits, denies, and alleges as follows:

32 **JURISDICTION AND VENUE**

33 1. Answering Paragraph 1, Defendant admits Plaintiffs are seeking relief  
34 pursuant to 42 U.S.C. Section 1983 as well as 28 U.S.C. Section 2201(a) and 2202.

1           2.     Answering Paragraph 2, Defendant admits venue is proper in the United  
2 States District Court-Central District of California.

3                               **PRELIMINARY STATEMENT**

4           3.     Answering Paragraph 3, Defendant concludes Plaintiffs do not make any  
5 allegations at this paragraph. Rather, they make an introductory statement regarding the  
6 plight of the homeless. As such, Defendant is not required to either admit or deny the  
7 language set forth in this paragraph.

8           4.     Answering Paragraph 4, Defendant concludes Plaintiffs do not make any  
9 allegations at this paragraph. Rather, they make an introductory statement regarding the  
10 plight of the homeless. As such, Defendant is not required to either admit or deny the  
11 language set forth in this paragraph. However, the City has allocated significant  
12 resources to addressing issues facing the homeless population within the City's  
13 geographic boundaries.

14          5.     Answering Paragraph 5, Defendant denies the contention that the City has  
15 not met its obligation as a result of the Jones settlement.

16          6.     Answering Paragraph 6, Defendant admits it has allocated significant  
17 resources to addressing issues confronted by the homeless population within the City's  
18 geographic boundaries.

19          7.     Answering Paragraph 7, Defendant denies the allegations of wrongdoing  
20 contained therein. Further, the City claims it has devoted significant resources to  
21 addressing the issues confronted by the homeless population within the City's geographic  
22 boundaries.

23          8.     Answering Paragraph 8, Defendant denies the allegations of wrongdoing  
24 contained therein. Further, the City claims it has devoted significant resources to  
25 addressing the issues confronted by the homeless population within the City's geographic  
26 boundaries.

27          9.     Answering Paragraph 9, Defendant admits it has litigated the  
28 constitutionality of LAMC Sections 41.18(d) and 85.02 in the Ninth Circuit. Defendant

1 denies that the rulings in the prior litigation set forth therein are relevant to the remaining  
2 legal claims now before the Court.

3 10. Answering Paragraph 10, Defendant admits it was a party to the litigation  
4 cited therein, but denies the allegations of wrongdoing contained therein.

5 11. Answering Paragraph 11, Defendant denies it has criminalized homelessness  
6 and denies that the litigation matters stated therein support any such contention.

7 12. Answering Paragraph 12, Defendant denies its employees committed any  
8 action which violated a federal or state right of any homeless person as alleged in the  
9 Lavan litigation.

10 13. Answering Paragraph 13, Defendant denies its employees committed any  
11 action which violated a federal or state right of any homeless person as alleged in the  
12 Lavan litigation.

13 14. Answering Paragraph 14, Defendant denies the allegations contained therein.

14 15. Answering Paragraph 15, Defendant denies the allegations contained therein.

15 16. Answering Paragraph 16, Defendant denies the allegations contained  
16 therein.

17 17 Answering Paragraph 17, Defendant denies the allegations contained  
18 therein.

19 **PARTIES**

20 **PLAINTIFFS**

21 **Carl Mitchell**

22 18. Answering Paragraph 18, Defendant lacks sufficient information and belief  
23 upon which to answer the allegations contained therein, and on that basis denies the  
24 allegations.

25 19. Answering Paragraph 19, Defendant denies the allegations contained therein.

26 20. Answering Paragraph 20, Defendant denies the allegations contained therein.

27 21. Answering Paragraph 21, Defendant denies the allegations contained therein.

28 ///



1 **Michael Escobedo**

2 22. Answering Paragraph 22, Defendant denies the allegations contained therein.

3 23. Answering Paragraph 23, Defendant denies the allegations contained therein.

4 **Salvador Roque**

5 24. Answering Paragraph 24, Defendant denies the allegations contained therein.

6 25. Answering Paragraph 25, Defendant denies the allegations contained therein.

7 26. Answering Paragraph 26, Defendant lacks sufficient information and belief  
8 upon which to answer the allegations contained therein, and on that basis denies the  
9 allegations.

10 27. Answering Paragraph 27, Defendant denies the allegations contained therein.

11 28. Answering Paragraph 28, Defendant denies the allegations contained therein.

12 29. Answering Paragraph 29, Defendant denies the allegations contained therein.

13 30. Answering Paragraph 30, Defendant denies the allegations contained therein.

14 31. Answering Paragraph 31, Defendant denies the allegations contained therein.

15 **Judy Coleman**

16 32. Answering Paragraph 32, Defendant lacks sufficient information and belief  
17 upon which to answer the allegations contained therein, and on that basis denies the  
18 allegations.

19 33. Answering Paragraph 33, Defendant admits Lieutenant Mathis has spoken  
20 to Plaintiff Coleman, but the City denies the allegations of wrongdoing contained therein.

21 34. Answering Paragraph 34, Defendant denies the allegations contained therein.

22 35. Answering Paragraph 35, Defendant denies the allegations contained therein.

23 36. Answering Paragraph 36, Defendant lacks sufficient information and belief  
24 upon which to answer the allegations contained therein, and on that basis denies the  
25 allegations.

26 37. Answering Paragraph 37, Defendant lacks sufficient information and belief  
27 upon which to answer the allegations contained therein, and on that basis denies the  
28 allegations.

1       38. Answering Paragraph 38, Defendant lacks sufficient information and belief  
2 upon which to answer the allegations contained therein, and on that basis denies the  
3 allegations.

4 **Los Angeles Catholic Worker**

5       39. Answering Paragraph 39, Defendant concludes Plaintiffs are not making any  
6 allegations of wrongdoing therein. However, Defendant admits Los Angeles Catholic  
7 Worker is an organization which provides various services to the homeless community  
8 in the downtown Los Angeles area.

9       40. Answering Paragraph 40, Defendant admits LACW possesses and distributes  
10 shopping carts to third parties and denies the allegations of wrongdoing contained therein.

11       41. Answering Paragraph 41, Defendant lacks sufficient information and belief  
12 upon which to answer the allegations contained therein, and on that basis denies the  
13 allegations.

14 **CANGRESS**

15       42. Answering Paragraph 42, Defendant admits CANGRESS is an organization  
16 but lacks sufficient information in order to admit or deny the contention that CANGRESS  
17 is a non-profit organization. Defendant denies the remaining allegations contained  
18 therein.

19 **DEFENDANTS**

20       43. Answering Paragraph 43, Defendant admits the City of Los Angeles is a  
21 public entity and denies the allegations that its employees have engaged in the acts  
22 complained of in the Complaint pursuant to the policies, practices and customs of the  
23 City.

24       44. Answering Paragraph 44, Defendant admits Lieutenant Mathis, Sgt. Hamer  
25 and Sgt. Richter are supervisors within the Los Angeles Police Department. Defendant  
26 denies the remaining allegations contained therein.

27       45. Answering Paragraph 45, Defendant denies the allegations contained therein.

28       46. Answering Paragraph 46, Defendant lacks sufficient information and belief

1 upon which to answer the allegations contained therein, and on that basis denies the  
2 allegations.

3 **THE SEIZURE AND DESTRUCTION OF PROPERTY**

4 47. Answering Paragraph 47, Defendant denies the allegations contained therein.

5 48. Answering Paragraph 48, Defendant denies the allegations contained therein.

6 49. Answering Paragraph 49, Defendant denies the allegations contained therein.

7 50. Answering Paragraph 50, Defendant denies the allegations contained therein.

8 51. Answering Paragraph 51, Defendant denies the allegations contained therein.

9 52. Answering Paragraph 52, Defendant denies the allegations contained therein.

10 53. Answering Paragraph 53, Defendant denies the allegations contained therein.

11 54. Answering Paragraph 54, Defendant denies the allegations contained therein.

12 55. Answering Paragraph 55, Defendant denies the allegations contained therein.

13 56. Answering Paragraph 56, Defendant denies the allegations contained therein.

14 Further, Defendant City has amended Los Angeles Municipal Code Section 56.11 since  
15 the Amended Complaint appears to have been drafted and signed by Attorney Sobel on  
16 or before March 17, 2015.

17 57. Answering Paragraph 57, Defendant denies the allegations contained therein.

18 58. Answering Paragraph 58, Defendant denies the allegations contained therein.

19 59. Answering Paragraph 59, Defendant denies the allegations contained therein.

20 60. Answering Paragraph 60, Defendant denies the allegations contained therein.

21 61. Answering Paragraph 61, Defendant denies the allegations contained therein.

22 62. Answering Paragraph 62, Defendant denies the allegations contained therein.

23 63. Answering Paragraph 63, Defendant denies the allegations contained therein.

24 **THE HEALTH AND SAFETY RISK TO UNHOUSED PERSONS**

25 64. Answering Paragraph 64, Defendant lacks sufficient information and belief  
26 upon which to answer the allegations contained therein, and on that basis denies the  
27 allegations.

28 65. Answering Paragraph 65, Defendant lacks sufficient information and belief



1 upon which to answer the allegations contained therein, and on that basis denies the  
2 allegations.

3 66. Answering Paragraph 66, Defendant lacks sufficient information and belief  
4 upon which to answer the allegations contained therein, and on that basis denies the  
5 allegations.

6 67. Answering Paragraph 67, Defendant lacks sufficient information and belief  
7 upon which to answer the allegations contained therein, and on that basis denies the  
8 allegations.

9 68. Answering Paragraph 68, Defendant denies the allegations contained therein.

10 69. Answering Paragraph 69, Defendant denies the allegations of wrongdoing  
11 contained therein and emphasizes the City has allocated significant resources to  
12 addressing issues facing the homeless population within the City's geographic boundaries.

13 70. Answering Paragraph 70, Defendant concludes Plaintiff is not alleging any  
14 facts which relate to the contention that one or more of the Plaintiffs were arrested  
15 without probable cause or that one or more of the Plaintiffs has suffered a violation of due  
16 process with regard to personal property. As such, Defendant is not required to assert  
17 either an admission or denial in response to Paragraph 70.

18 71. Answering Paragraph 71, Defendant denies the allegations contained therein.

## 19 **FIRST CAUSE OF ACTION**

### 20 **Right to Be Secure From Unreasonable Seizures**

#### 21 **42 U.S.C. §1983 - Fourth Amendment; Art. 1, §13, California Constitution**

22 72. Answering Paragraph 72, which incorporates by reference the allegations of  
23 other paragraphs of the pleading, Defendants to the same extent incorporate by reference  
24 the answers provided herein to those paragraphs.

25 73. Answering Paragraph 73, Defendant denies the allegations contained therein.

26 74. Answering Paragraph 74, Defendant denies the allegations contained therein.

27 75. Answering Paragraph 75, Defendant denies the allegations contained therein.

28 76. Answering Paragraph 76, Defendant denies the allegations contained therein.

1        77. Answering Paragraph 77, Defendant denies the allegations contained therein.

2                                    **SECOND CAUSE OF ACTION**

3                                    **Right to Due Process of Law**

4                                    **42 U.S.C. §1983 - Fifth and Fourteenth Amendments; Art. 1, §7**

5        78. Answering Paragraph 78, which incorporates by reference the allegations of  
6 other paragraphs of the pleading, Defendants to the same extent incorporate by reference  
7 the answers provided herein to those paragraphs.

8        79. Answering Paragraph 79, Defendant denies its employees or agents violated  
9 the constitutional rights of any of the Plaintiffs in this litigation.

10       80. Answering Paragraph 80, Defendant denies the allegations contained therein.

11       81. Answering Paragraph 81, Defendant denies the allegations contained therein.

12       82. Answering Paragraph 82, Defendant denies the allegations contained therein.

13       83. Answering Paragraph 83, Defendant denies the allegations contained therein.

14                                    **THIRD CAUSE OF ACTION**

15                                    **Violation of Civil Rights**

16                                    **42 U.S.C. §1983 - Fourteenth Amendment**

17                                    **State Created Danger**

18       84. Answering Paragraph 84, which incorporates by reference the allegations of  
19 other paragraphs of the pleading, Defendants to the same extent incorporate by reference  
20 the answers provided herein to those paragraphs.

21       85. Answering Paragraph 85, Defendant denies the allegations contained therein.

22       86. Answering Paragraph 86, Defendant denies the allegations contained therein.

23                                    **FOURTH CAUSE OF ACTION**

24                                    **Violation of 42 U.S.C. §1983 et seq.:**

25                                    **Title II of the Americans With Disabilities Act**

26       87. Answering Paragraph 87, which incorporates by reference the allegations of  
27 other paragraphs of the pleading, Defendants to the same extent incorporate by reference  
28 the answers provided herein to those paragraphs.



4 || 89. Answering Paragraph 89, Defendant denies the allegations contained therein.

6 | 91. Answering Paragraph 91, Defendant denies the allegations contained therein.

8 93. Answering Paragraph 93, Defendant denies the allegations contained therein.

10      95.    Answering Paragraph 95, Defendant denies the allegations contained therein.

12 || **FIFTH CAUSE OF ACTION**

14            97. Answering Paragraph 97, which incorporates by reference the allegations of  
15 other paragraphs of the pleading, Defendants to the same extent incorporate by reference  
16 the answers provided herein to those paragraphs.

20 99. Answering Paragraph 99, Defendant denies the allegations contained therein.

23        101. Answering Paragraph 101, Defendant denies the allegations contained  
24        therein.

102. Answering Paragraph 102, Defendant denies the allegations contained  
therein.

27 |||

**SIXTH CAUSE OF ACTION**

**Violation of Civil Rights: Interference By Threat, Intimidation or Coercion**

**California Civil Code §52.1**

103. Answering Paragraph 103, which incorporates by reference the allegations of other paragraphs of the pleading, Defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

104. Answering Paragraph 104, Defendant denies the allegations contained therein.

105. Answering Paragraph 105, Defendant denies the allegations contained therein.

**SEVENTH CAUSE OF ACTION**

**California Government Code §11135**

106. Answering Paragraph 106, which incorporates by reference the allegations of other paragraphs of the pleading, Defendants to the same extent incorporate by reference the answers provided herein to those paragraphs.

107. Answering Paragraph 107, Defendant admits Plaintiffs are seeking relief pursuant to California Government Code Section 11135. Defendant denies any of the Plaintiffs have been discriminated against by any agent or employee of the City of Angeles.

108. Answering Paragraph 108, Defendant denies the allegations contained therein.

109. Answering Paragraph 109, Defendant denies the allegations contained therein.

110. Answering Paragraph 110, Defendant denies the allegations contained therein.

**EIGHTH CAUSE OF ACTION**

**Violation of Unruh Civil Rights Act: Civil Code §52.1 et seq.**

111. Answering Paragraph 111, which incorporates by reference the allegations

1 of other paragraphs of the pleading, Defendants to the same extent incorporate by  
2 reference the answers provided herein to those paragraphs.

3 112. Answering Paragraph 112, Defendant admits Plaintiffs are seeking relief  
4 pursuant to California Civil Code Section 51. Defendant denies Plaintiff is entitled to any  
5 such relief.

6 113. Answering Paragraph 113, Defendant denies any Plaintiff has suffered  
7 discrimination by any City employee or agent.

8 114. Answering Paragraph 114, Defendant denies the allegations contained  
9 therein.

10 115. Answering Paragraph 115, Defendant denies the allegations contained  
11 therein.

12 116. Answering Paragraph 116, Defendant denies the allegations contained  
13 therein.

14 **NINTH CAUSE OF ACTION**

15 **California Civil Code §2080, et seq.**

16 117. Answering Paragraph 117, which incorporates by reference the allegations  
17 of other paragraphs of the pleading, Defendants to the same extent incorporate by  
18 reference the answers provided herein to those paragraphs.

19 118. Answering Paragraph 118, Defendant denies the allegations contained  
20 therein.

21 **TENTH CAUSE OF ACTION**

22 **Conversation**

23 119. Answering Paragraph 119, which incorporates by reference the allegations  
24 of other paragraphs of the pleading, Defendant to the same extent incorporates by  
25 reference the answers provided herein to those paragraphs.

26 120. Answering Paragraph 120, Defendant denies the allegations contained  
27 therein and this cause of action has been dismissed.

28 121. Answering Paragraph 121, Defendant denies the allegations contained



1 therein and this cause of action has been dismissed.

2 122. Answering Paragraph 122, Defendant denies the allegations contained  
3 therein and this cause of action has been dismissed.

4 123. Answering Paragraph 123, Defendant denies the allegations contained  
5 therein and this cause of action has been dismissed.

## 6 **ELEVENTH CAUSE OF ACTION**

### 7 **False Arrest**

8 124. Answering Paragraph 124, which incorporates by reference the allegations  
9 of other paragraphs of the pleading, Defendant to the same extent incorporates by  
10 reference the answers provided herein to those paragraphs.

11 125. Answering Paragraph 125, Defendant denies the allegations contained  
12 therein and this cause of action has been dismissed.

13 126. Answering Paragraph 126, Defendant denies the allegations contained  
14 therein and this cause of action has been dismissed.

### 15 **INJUNCTIVE RELIEF**

16 127. Answering Paragraph 127, which incorporates by reference the allegations  
17 of other paragraphs of the pleading, Defendant to the same extent incorporates by  
18 reference the answers provided herein to those paragraphs.

19 128. Answering Paragraph 128, Defendant denies that Plaintiffs are entitled to  
20 injunctive relief.

21 129. Answering Paragraph 129, Defendant denies the allegations contained  
22 therein.

23 130. Answering Paragraph 130, Defendant denies the allegations contained  
24 therein.

25 131. Answering Paragraph 131, Defendant denies the allegations contained  
26 therein.

27 132. Answering Paragraph 132, Defendant denies the allegations contained  
28 therein.

1 **AFFIRMATIVE DEFENSES**

2 As separate and distinct affirmative defense, Defendant **CITY OF LOS**  
3 **ANGELES** alleges each of the following:

4 **FIRST AFFIRMATIVE DEFENSE**

5 Defendant alleges there was probable cause to arrest Plaintiffs Carl Mitchell,  
6 Salvador Roque, and Judy Coleman on the dates alleged in the Complaint.

7  
8 Defendant hereby reserves the right to amend this Answer in accordance with the  
9 Federal Rules of Civil Procedure.

10  
11 **PRAYER FOR RELIEF**

12 **W H E R E F O R E**, Defendant **CITY OF LOS ANGELES** prays for judgment  
13 as follows:

- 14 1. That Plaintiffs take nothing by this action;  
15 2. That the action be dismissed;  
16 3. That Defendant be awarded costs of suit;  
17 4. That Defendant be awarded other and further relief as the Court may deem  
18 just and proper, including an award of attorney's fees pursuant to 42 U.S.C. § 1988.

19  
20 **DEMAND FOR JURY TRIAL**

21 Defendant **CITY OF LOS ANGELES** demands and requests a trial by jury in this  
22 matter.

23  
24 DATED: May 20, 2016

**MICHAEL N. FEUER**, City Attorney  
**THOMAS H. PETERS**, Chief Assistant City Attorney  
**CORY M. BRENT**, Assistant City Attorney

25  
26  
27 By /s/ - Surekha A. Pessis  
28 **SUREKHA A. PESSIS**, Deputy City Attorney  
Attorneys for Defendant, **CITY OF LOS ANGELES**